SUMMARY AND ANALYSIS OF STAKEHOLDER COMMENTS AND CONSULTANT RECOMMENDATIONS REGARDING THE FORMATION AND FUNCTIONING OF AN IMPLEMENTATION ADVISORY COMMITTEE FOR THE TOTAL MAXIMUM DAILY LOAD (TMDL) FOR POLYCHLORINATED BIPHENYLS (PCBS) IN THE DELAWARE ESTUARY

VOLUME TWO: MARASCO NEWTON GROUP'S RECOMMENDATIONS REGARDING THE MEMBERSHIP, STRUCTURE, AND FUNCTIONING OF THE IMPLEMENTATION ADVISORY COMMITTEE

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PREFACE

This report is divided into two volumes. ***Volume One: Summary and Analysis of Stakeholder Comments*** comprises two main sections which document the results of our interviews with a broad cross section of representatives from municipalities; industry; regulatory agencies; and environmental, fishing, and recreational interest groups. Volume One is composed of the following main sections:

Section 1.0 – Background and Introduction. This section introduces the reader to the purpose of the report and the context and activities leading up to the desire to convene an Implementation Advisory Committee.

Section 2.0 – Stakeholders' Concerns, Comments, and Opinions Regarding TMDL Development and Implementation. This section is divided into three sub-sections for clarity. One describes issues associated with the process that the DRBC has employed to develop and communicate the TMDL. The other two sub-sections describe issues associated with technical aspects of the TMDL development, its scientific underpinnings, and regulatory parameters.

Section 3.0 – Stakeholders' Recommendations Regarding the Formation and Functioning of the Implementation Advisory Committee. This section describes interviewees' views on representation on the Implementation Advisory Committee (IAC), qualities of participants, and principles under which the group should function.

Section 4.0 – Summary and Conclusions

Volume Two: Marasco Newton Group's Recommendations Regarding the Membership, Structure, and Functioning of the Implementation Advisory Committee was developed to provide a foundation from which a successful Implementation Advisory Committee can be launched. Designed as a practical plan for setting up an Implementation Advisory Committee, it focuses on recommendations and rationale for structure and composition of an Implementation Advisory Group, and provides a series of framing documents for getting the group started. Recommendations are based on best practices and Marasco Newton's experience facilitating and mediating multi-party decision-making as tailored to the needs and expectations of the interviewees and DRBC staff. A rationale is provided for each recommendation as well as suggested action steps to implement the recommendation.

TABLE OF CONTENTS

Volume One: Summary and Analysis of Stakeholder Comments

Volume Two: Marasco Newton Group's Recommendations Regarding the Membership, Structure, and Functioning of the Implementation Advisory Committee

1.0 Background and Introduction to Volume Two

Since 1989, with the creation of the Delaware Estuary Toxics Management Program, the Delaware River Basin Commission (DRBC) has been working to decrease toxics such as polychlorinated biphenyls (PCBs) in the Delaware Estuary. PCBs are a class of synthetic compounds that were manufactured and used extensively in electrical equipment such as transformers and capacitors, paints, printing inks, pesticides, hydraulic fluids, and lubricants. Their manufacture was banned by the U.S. Environmental Protection Agency (EPA) in the late 1970s, but existing uses in some electrical equipment and some small exceptions were allowed. PCBs are lipophilic; as a result they tend to bind to organic particles in sediments and soils. PCBs are also chemically very stable, an attribute which allows them to persist in the environment for years following their release. When consumed, PCBs accumulate in the tissue of the fish and other wildlife.

Section 303(d) of the Clean Water Act requires states to identify bodies of water that will not meet water quality standards, to rank those bodies by priority, and to develop TMDLs for those waters. Since the 1980s, the states of Delaware, New Jersey, and Pennsylvania have issued fish consumption advisories for portions of the Delaware Estuary due to PCB concentrations measured in fish tissue. Advisories are currently in effect from Trenton, New Jersey to the mouth of the Delaware Bay. Each of these states has listed the Delaware Estuary as impaired by PCBs and is working through the DRBC to develop a collaborative TMDL. Each of the states has its own target date for the TMDL. Both New Jersey and Delaware have deadlines set in the course of litigation. New Jersey's September 2003 deadline is contained in a Memorandum of Agreement between New Jersey and EPA Region 2. Delaware faces a court-ordered deadline contained in a consent decree. Pennsylvania has listed the Delaware Estuary as impaired for PCBs but has no court ordered date by which a TMDL must be completed.

The goal of the Delaware Estuary TMDL as described in the March 2002 *Delaware Estuary PCB Strategy*, developed by a subcommittee of DRBCs Technical Advisory Committee (TAC), is to achieve water quality standards for Zones 2, 3, 4, and 5 of the tidal portions of the Delaware River ("the Delaware Estuary") and eliminate the necessity of fish consumption advisories. The Strategy includes nine main activities:

1. determine the water quality targets for the TMDL;
2. characterize PCB concentrations in the estuary ecosystem;
3. identify and quantify sources and pathways of PCBs;
4. determine transport and fate of PCB loads within the Delaware Estuary;
5. establish waste load allocations for point sources and load allocations for non-point sources of PCBs within the Delaware River Basin;
6. develop an implementation plan to reduce PCBs entering the estuary;
7. increase environmental awareness of toxicity issues in the estuary;
8. monitor long-term PCB concentrations in the air, water, and sediments of the estuary; and
9. monitor long-term concentrations in and impacts to living resources of the estuary.

The Value of an Implementation Advisory Committee

Using an Implementation Advisory Committee (IAC) to design the details of the implementation process for the PCB TMDL provides an opportunity for affected and interested parties to reach a mutually satisfactory agreement about how best to allocate financial and human resources to address the problem of PCB discharges into the Delaware Estuary. If organized and operated according to a consensus-building model, such a committee can assist parties in better defining the problem and understanding its local implications. It can provide a forum for information and technology exchange from which the process can benefit. It can strengthen relationships among stakeholders and help them communicate more effectively so that energy can be focused on solving the problem at hand, rather than advocating a particular position. The opportunity for mutual gain can only occur when parties believe that the *process* was fair and well defined, the *substantive* issues were addressed, and the *relationships* were strengthened, enabling better communication and cooperation to implement resulting agreements.

This kind of mutual gains process is often hard work. It challenges individuals' world views and values. It requires intensive and often prolonged coordination within organizations and coalitions of organizations. It purposely alters communication patterns within the process away from straight advocacy and toward information-based problem-solving.

Stakeholder Incentives to Participate on the Implementation Advisory Committee

Why should my organization participate? What does my organization stand to gain from the process? What incentives are there to participate? These are all questions each prospective stakeholder representative should consider seriously before accepting an invitation to serve on the IAC. All parties come to the table with some ability to get at least some of their interests met outside of this process either through political or legal avenues. For an Implementation Advisory Committee to be successful, parties must believe that working within the multi-stakeholder process has a greater likelihood of meeting their interests in the long term than litigating or advocating using other channels. After speaking with the parties involved, we believe that there is sufficient incentive for all stakeholder groups to participate on a well-defined IAC. We believe that such a process could be beneficial both for creating a more cost-effective, more environmentally proactive solution and strengthening relationships that would benefit parties in this and future efforts. Marasco Newton has considered possible incentives to participate in the IAC for each stakeholder group and has outlined them in the Table 1 below.

Table 1: Incentives for Stakeholders to Participate in the IAC

Municipalities

- Gain greater understanding of PCB discharges into their systems.
- Identify the most cost-effective waste minimization approaches.
- Work with regulatory agencies and other stakeholders to address non-point source abatement.

Industry/Commercial Land Owners

- Ensure that actions that industry and commercial landowners are required to take are the ones that will make the biggest positive environmental impact at the least cost.
- Bring day-to-day feasibility questions to the table and work to tailor solutions to address operational realities.
- Test new technologies, concepts, and ideas.
- Develop better working relationships with regulators and other stakeholder groups.
- Foster good environmental public relations.
- Help to track down unknown sources of PCBs in the Delaware River Basin in order to get a better understanding of relative contribution of industrial sources.

Environmental and Public Interest Groups

- Raise public awareness of environmental and toxics issues with other members of the IAC and the general public.
- Influence implementation strategies to ensure maximum environmental protectiveness.
- Legitimize and clarify their monitoring and enforcement roles during implementation.
- Contribute knowledge of other implementation strategies and potential sources of contamination.
- Raise issues of concern to citizens and public interest groups.
- Develop a relationship with regulators and industry where you may be viewed as a problem-solving and technical resource.
- Increase chances that implementation activities will occur absent of resource-intensive litigation and advocacy.

Regulators

- Develop a good model for future TMDLs based on principles of interaction and clear regulatory parameters.
- Generate goodwill with stakeholders by providing access and input to decision-making.
- Reduce the chance of litigation.
- Increase the ease of implementation and enforcement and develop clear protocol for handling conflicts associated with implementation actions and decisions in the future.
- Improve chances that implementation activities will be targeted correctly to address the problem.
- Learn new technologies, approaches, and concepts for PCB control and cleanup.
- Enjoy cost savings by reducing redundancy among regulators.
- Develop better relationships among regulators; clarity of purpose for future collaborative efforts.
- Target agency resources toward addressing the most important non-point sources.

Additional incentives to participation for all parties include:

- an ability to develop an implementation planning framework that can be used in other contexts for other toxics. Effective implementation on the PCB TMDL could dramatically reduce time and resources for other toxics reduction efforts in the Estuary; and
- providing an implementation planning framework that can be used in other regions addressing similar issues, and in so doing, weigh in to the national policy debate concerning TMDL development and implementation.

1.1 Proposed Structure and Composition of the Implementation Advisory Committee

The structure of the IAC should support both effective leadership and clear roles for Committee members. For the IAC to be productive, an ideal size for such a group is between 15 and 20 members, although there is no absolute magic number. The IAC should be composed of key stakeholders who reflect the breadth of perspectives and roles involved in implementing the TMDL. The stakeholder assessment confirmed that key stakeholders should, at a minimum, include representatives of *industrial and municipal dischargers*[1]*, state regulatory agencies, environmental and wildlife organizations, and recreational fishing organizations*. A proposed break out of composition is included in Table 2 below, with the reasons for this proposed composition described subsequently.

This framework relies on representation. Each member of the IAC will have a constituency or coalition that it will represent, with responsibility for bringing its constituency's interests to the discussion. Similarly, representatives will be responsible for vetting options to their constituents and gaining their approval on decisions made. Marasco Newton recommends that the individual member be chosen by the constituency group, not nominated by the Commissioners.

The recommended composition is proposed for several reasons. It contains representatives from all the major interest groups, but has heavier representation from the entities that are likely to be responsible for controlling active discharges and cleaning up legacy contamination, namely the regulatory agencies (from a non-point perspective) and industry and major land owners (from an active discharge and legacy pollutant perspective). Because this group includes representatives from all of the regulatory agencies and major dischargers, all players are present to determine, track, and enforce agreements. This model of representation also provides for a role for non-regulated environmental advocacy groups to bring good ideas to the table and ensure that alternative allocations are not less protective than default allocations.

[1] The term *discharger* may imply to some an active and intentional release of PCBs. However, it is important to note that in many cases it is believed that PCBs are being transferred via stormwater through municipal and industrial sites and that the actual sources of PCBs may be unidentified parcels of contaminated land. The IAC may want to consider referring to *sources* and *point* and *non-point pathways*.

Table 2: Proposed Composition of Implementation Advisory Group

Stakeholder Type	Number of Representatives
Regulatory agencies – One from each EPA Region (2) – One from each State (3) – One from DRBC (1)	6
Industrial dischargers	4
Large municipalities	3
Small municipalities	2
Wildlife or endangered species representative (note: this could be a state or federal representative or a private advocacy group)	1-3
Environmental groups	2
Fishing or other user interest group	1
Possible unidentified dischargers	1-2

Role of the DRBC Staff and the Commissioners

Marasco Newton encourages the DRBC and other regulators to accept all consensus implementation recommendations of the IAC that meet the general goals framed by the regulators. Since the representation and decision making process is predicated on carefully defined and clearly articulated parameters by the regulatory agencies as a first step, and includes careful consultation with all regulatory partners along the way, this should not be a difficult principle to abide by. However, agreeing to abide by this principle gives the parties further incentive to reach consensus and provides assurance that the process will not be overshadowed by political expediency. If parties believe that their decisions will be altered for political or other reasons by the regulators, efforts of the IAC may well be undermined. A name change may be appropriate to reflect the action-oriented nature of the group rather than simply the advisory role originally conceived.

DRBC staff should play three roles on this Committee. First they should have one representative like all the other regulatory agencies since they have an implementation role. Second, as the facilitators of data gathering and modeling for the creation of the TMDL, they will be called upon to provide information and data to the IAC for its deliberations. Finally, because they have identified the need for the group and have obtained startup funding for it, they have a role as a catalyst for getting the group started and underway.

Role of the Toxics Advisory Committee

The original concept of an IAC included the idea that TAC members could automatically have a seat on the IAC. In order to keep numbers manageable, maintain balance in representation, and ensure that IAC members are speaking for those they claim to represent, we recommend that TAC members not have an automatic seat. This is not meant to preclude a stakeholder group from nominating a current or former TAC member as their representative.

Focus of the Implementation Advisory Committee

The Role of the IAC is to provide stakeholders with an opportunity to propose creative and cost-effective alternatives for achieving the DRBC's water quality standards per Element 6 of the *Delaware Estuary PCB Strategy*, developed in consultation with the TAC. It should focus on: researching programs that are working elsewhere; researching and evaluating control and cleanup technologies, especially those focused on release prevention and trackdown; developing and prioritizing strategies for reducing PCB releases to meet the TMDL; and making recommendations on new rules. These actions may result in developing alternative waste load and load allocations that include the consent of all affected dischargers. While it is anticipated that the IAC will need to manipulate the data and information gathered to date and possibly bring more data to the discussion, it is expressly not the role of the IAC to renegotiate the scientific work conducted to date. It is anticipated that to achieve these stated objectives the IAC will:

- develop a multi-year work plan to develop steps for implementing the TMDL, including proactive PCB release prevention strategies and alternative waste load and load allocations (if desired);

- keep commissioners and senior managers apprised of the efforts as the project develops and get "buy-in" as necessary (to prevent politicization of the process);
- conduct (or ask others to conduct) additional research on innovative or cost-effective programs that work and debate the merits of these approaches;
- agree upon tasks and their priorities for reducing PCBs in the estuary; and
- monitor progress on implementation tasks.

Determining Individual Representatives on the IAC

Since most interviewees indicated a desire to serve on the IAC, and the point source and non-point source data have yet to be finalized, further discussion is necessary to:

- determine who the major dischargers are;
- create or determine groups and alliances of representation; and
- discuss with specific entities the individual they are putting forward to ensure they have the right skills and attitude for the IAC.

We suggest that once this report is finalized, a letter be sent under joint letterhead from a group of major stakeholders to explain the proposed process and identify possibly affected entities as well as groups requiring representation. These entities and groups could then work among themselves to identify who they feel can best represent them on the IAC. Marasco Newton would be available to assist parties if necessary.

1.2 Deciding on Representation in the IAC and Participation Ground Rules

Ideal Implementation Advisory Committee Candidate

It has become clear that no single person at any institution has all the appropriate expertise to make decisions intelligently about a PCB TMDL. A variety of disciplines and knowledge bases will need to be tapped throughout this process. Therefore, the choice of participant for the IAC should be someone who can catalyze the right people in their organization to participate in the appropriate discussions adequately briefed. This person should also be aware of the policy ramifications of the technical considerations being discussed.

The ideal candidate to serve on the IAC will be an individual who is an effective negotiator and who will meet a combination of the following criteria:

- have a collaborative and problem-solving approach;
- have a commitment to meeting their own interests, but helping others meet theirs as well;
- have the authority to represent a group of stakeholders;
- be able to commit resources of the institution(s) they represent (following consultation if necessary);
- have a basic understanding of PCB issues (or could easily become familiar with them);
- be able to familiarize him or herself with the DRBC's PCB TMDL development process;
- have experience serving on a multi-stakeholder environmental technical committee;

- have the time and support of their institution to serve on the IAC (attend meetings);
- have an alternate representative who can attend IAC meetings if required; and
- be able to commit to serving on the IAC for the duration of the IAC process (at least two years).

While some stakeholder representatives may have both the policy and technical experience necessary to contribute to the IAC, members should feel free to bring other people from their organization or coalition to meetings to add particular expertise.

Participation Groundrules

If the IAC's purpose is to develop and commit to a cost-effective implementation approach for a PCB TMDL for the Delaware Estuary, the IAC members must maintain a spirit of collaborative problem solving and decision making. The working relationships forged among IAC members will be critical to living up to agreements on implementation and monitoring and working through any problems that arise. It is therefore necessary for each prospective IAC member to commit in writing at the outset that they will participate in the IAC process in good faith and that if agreements are reached they will live up to their agreed-to role during implementation. If prospective members do not feel they can abide by these participation ground rules, they should provide their input through formal public participation channels.

1.3 Support for Deliberation

Stakeholders stated, and we firmly believe, that technical and procedural support is critical for the IAC to succeed in accomplishing its tasks, stay on track, hold members accountable and deliberate efficiently. It is therefore important to identify and agree on the method for providing this support during the design phase.

It is our experience that these types of processes work best when a highly respected chair is supported by professional and neutral facilitators and meeting staff. Having a neutral, professional facilitator spearheading the effort ensures that one hand knows what the other is doing, provides for a point of accountability, and increases the likelihood of consistency of approach and purpose among these highly interrelated tasks. Alternative models that can also work if funds are limited include having participants provide in-kind support to provide research and meeting planning services in coordination with the facilitator. Regardless of the model, meeting and planning support must be agreed to by all parties, be consistent and predictable, and, above all, be viewed as unbiased. For example, it cannot be taken for granted that one party's technical experts will be accepted by other parties.

Documentation

We further recommend that there be a person who will be in charge of documenting agreements throughout the process and serve as the institutional history of debate and agreements. This person should be trained and skilled in note taking and summary creation. The chair, supported by the facilitator, should

ensure that materials are in a format useful for meetings and understandable by all parties. Finally, an agreement as to how this group will fund support must be planned for from the first meeting or before. *Table 3: Support Functions Needed for Implementation Advisory Group* provides a further breakdown of tasks in this area and includes recommendations on who should conduct them.

Committee Chair or Co-Chairs

A chair or co-chairs for the IAC should be confirmed after the first meeting of the committee. The IAC chair would be responsible for ensuring that the committee fulfills its charge and completes its agreed tasks. Specific functions of the chair would include: (1) working with IAC members to formulate agendas; (2) facilitating the meetings or assisting the facilitator in facilitating meetings; (3) ensuring compliance with all committee ground rules, assisting in building consensus among committee members, and building consensus among diverse interests; and (4) maintaining a meeting schedule and ensuring that meetings are held with an agreed-upon frequency. The chair will ideally have prior experience leading committees, particularly multi-stakeholder committees. The chair should have administrative and facilitation support. For a list of functions provided by a facilitator or meeting support contractor in support of the chair, see *Appendix A: Roles and Responsibilities of Facilitators and Meeting Support Contractors.*

Funding

Getting funding commitments in place early in the process is critical to success in complex, long-term efforts for several reasons. First, a detailed workplan with associated funding helps participants understand what information and data they will have on which to base their decisions. Second, consistent facilitation support ensures that good planning can occur and dialogue continue uninterrupted. Finally, estimating the budget up front can help participants budget for their contribution in future years. In order for this effort truly to reflect the commitment of the IAC members, we strongly suggest that funding for its support come from multiple sources. Contributing to funding not only promotes buy-in from members, but also helps to ensure neutrality of the overall process. Finally, some funding may need to be provided to environmental and public interest groups to help defray their costs in attending meetings and reviewing documents. While it may seem counter intuitive to some to help fund groups that have sued them in the past (or may do so in the future), adequate preparation and attendance by all parties is critical to success.

It should be noted that several dischargers offered that they would consider financial contributions to support this effort if it is well planned.

Table 3: Support Functions Needed for Implementation Advisory Group

Type of Support	Specific Tasks
Meeting Planning Tasks should be coordinated by facilitator to ensure support for meeting objectives, but can be done through in-kind support from stkeholder groups.	• Ensure appropriate meeting space is scheduled and secured. • Ensure proper set up of room including AV and other needs. • Work with facilitator to ensure that participants have materials they need when they need them. • Provide on-site meeting support such as refreshments, office support.
Facilitation and Dispute Resolution Tasks should be done by professional, neutral facilitator/mediator.	• Develop and get agreement on work plan and agendas. • Facilitate meetings to ensure efficiency, productivity and neutrality. • Resolve conflicts as they arise at or between meetings. • Coach stakeholders and their groups to participate effectively and get their interests met. • Analyze opportunities for mutual gains. • Ensure that participants are communicating effectively. • Develop written materials, maps, presentations to assist with the deliberative process. • Develop a conceptual map of decisions in order to keep group focused and on task. • Maintain running history of actions, decisions and their rationale. • Document agreed upon parameters of the group (e.g., charge and vision, ground rules, principles, etc.). • Create, distribute and finalize high-quality and complete meeting summaries.
Research and Analysis Tasks can be conducted through volunteer subcommittees, by the facilitator, outside technical expert, or through in-kind support. Relying on volunteer or agency labor nearly always slows down the process.	• Conduct literature reviews, research, interviews, state of the science summaries, case studies and trend analyses on areas of importance to implementation group. • Develop materials for use in deliberation based on technical questions. • Develop position and analysis papers.

1.4 Clarifying the Purpose, Goals and Parameters of the IAC

Before selecting and inviting stakeholders to participate in the IAC and holding the first meeting, several actions should take place to bring clarity to some of the major issues around mandate and scope expressed by stakeholders in this report. These steps involve the DRBC, EPA Regions 2 and 3 and state agencies.

Prepare summary documents clarifying decisions, assumptions, and parameters of the PCB TMDL process. The DRBC should prepare summary documents clarifying the basis and background for the TMDL and the IAC process. These documents should be used to build consensus decisions among regulatory agencies and the DRBC's commissioners about the mandate and scope of the IAC.

Convene a meeting to ensure that regulatory agencies speak with a common voice. This regulatory clarity is needed to keep all members of the IAC focused on the same goals and to remind stakeholders of the regulatory parameters of this effort. Marasco Newton recommends that the regulatory agencies convene a regulators-only meeting where they come to agreement

on the following questions (and others as determined by the regulatory group):

- Should there be a common fish tissue concentration limit for all the Delaware River? If so, what should it be? How should it be determined? How should it be communicated?
- What are the goals of the TMDL? Removal of fish consumption advisories? Meeting water quality standards? Removing impacts on wildlife?
- Will the TMDL development/implementation be phased? What are the acceptable parameters of an iterative or phased TMDL?
- What are the boundaries and goals of the IAC's function and responsibilities?
- How should data conflicts get resolved and communicated to stakeholders? Should regulations set assumptions? Compel evidence?
- What should the mandate and scope of the IAC be in light of the above clarifying decisions?

These parameters should be set and a rationale for those decisions communicated clearly. Although the group of regulators may wish to revisit some of these parameters as new information or analysis becomes available, it is critical for all regulators to approach and move through the process with a common understanding. In order to kick off the implementation phase of this project on the right foot, this meeting should be conducted at the highest decision-making level possible within the regulatory agencies, including the DRBC Commissioners. Regulators should seek agreement on the following:

- a revised draft mandate and scope for the IAC;
- a timeframe and expected products from the group;
- how the Commission and other regulators will use the advice from the IAC. Before the IAC is formed there should be agreement from the Commission and other regulators regarding how the IAC's input will be used. We suggest that should the IAC develop a consensus decision

about any matter, the regulators accept its recommendations; and
- clearly identified roles for the Commission, States, and EPA regions.

Solicit input on the revised mandate and scope of the IAC. Once the regulatory agencies and the Commissioners agree on a revised mandate and scope for the IAC, the regulated and non-regulated stakeholders should have an opportunity to provide input. This is important to build trust and confidence that concerns have been addressed and commitment among interested stakeholders for participating in the process. Suggestions should be brought before the Commission and any changes adopted.

1.5 Schedule and Topics for Implementation Advisory Committee Meetings

The IAC process can be approached in defined stages that serve to build understanding and consensus about issues and generate creative solutions and consensus around what solutions should be recommended in a TMDL implementation strategy. Using the draft purpose statement and scope of work as a basis, a suggested process and schedule is outlined below.

Task 1. Form the IAC and Develop a Common Foundation

The focus during Task 1 will be to establish the IAC with the support of its stakeholder members, develop a common understanding of purpose and technical issues, and identify priority issues to be addressed in the IAC's scope of work. This should be a two- to three-day meeting that incorporates the following sub-tasks:

1. Introduce members.
2. Develop consensus on the objectives and scope of the IAC.
3. Develop agreed-upon substantive and procedural ground rules and decision making protocol.
4. Introduce members to concepts of interest-based negotiation and mutual gains concepts.
5. Develop a common foundation for all stakeholders on the TMDL process, basic PCB-related scientific concepts.
6. Ensure that all members understand the regulatory parameters.
7. Clarify terms and vocabulary (e.g., standards, criteria, non-point source, point source).
8. Determine measures of success.
9. Finalize a work plan for the IAC (The idea would be that the DRBC, in conjunction with Marasco Newton and other interested stakeholders, would draft a work plan for the IAC that would be used as a straw man). This 'rough' agenda could serve as a basis for this effort.
10. Develop a budget and identify funding sources to implement the workplan. (Note: funding for these efforts should be identified as far out in the future as possible, but at a minimum of one year. Uncertainty over funding makes it difficult for a group to be efficient and maintain continuity. Buy-in for projects is increased if stakeholders contribute to the funding of the process and data.)

For best effect and to minimize distractions, the IAC should consider holding this meeting in a retreat-like

setting if the required funding can be found.

Task 2. Develop Information on Programs and Approaches That Work

The IAC would research and provide a summary of relevant information about technical, procedural, and enforcement mechanisms that have succeeded in other places. The group could contract out a study of innovations or invite experts to speak at their meeting. Topics would be presented in the work plan based on the priorities of the group, but might include:

- innovative enforcement mechanisms;
- land-based controls and technologies;
- mechanisms for voluntary controls or programs;
- pollution prevention;
- pollution trading feasibility and mechanisms; and
- remediation and cleanup technologies.

The IAC could establish an innovations team or contract a research study for review by the group. The group should seek further information on one to three initiatives (dependent upon funding).

Task 3. Develop Criteria and Strategies Capable of Prompt Implementation for Reducing Potential and Actual PCB Sources

Simultaneous to Task 2, the IAC will lead Task 3 to develop and prioritize strategies and programs for identifying, tracking, containing, and safely disposing of PCBs in service but not leaking to the earth, air, or water (potential sources) and for PCBs actively leaking to the estuary from equipment, soils, sediment, or other sources (actual sources). The IAC will rely on the data describing the sources and concentrations of PCBs in the different zones of the estuary. If the group chooses, it can collect additional data or information to inform its efforts. For example, the IAC could convene a group of experts in identifying, tracking, and disposing of active sources of PCBs (e.g., Navy technicians, CERCLA/RCRA staff from state agencies and EPA, pollution prevention experts) to provide advice on this topic.

Assuming that the group would like to explore alternative wasteload and load allocations, the group must decide upon the criteria for cleanup priorities and answer questions such as:

- What do we mean by low hanging fruit? What actions do we agree to take immediately regardless of the wasteload and load allocations?
- What are the next group of actions we will take? What are the criteria for choosing these?
- How will we know when we have met our goals?
- Are there any sources that do not need to be addressed? If so, how do we decide that?
- When do we all agree to act?
- How will we pay for this cleanup/prevention?

Task 4. Develop Concept of Alternative Waste Load and Load Allocations

The IAC will work together to determine whether alternative waste load and load allocations are attractive to put forward by the target date set by regulators. If

so, the group will develop a white paper or proposal outlining the basis for these alternative approaches, gain conceptual consensus from all affected dischargers, and submit the proposal to the Commissioners. This will require that the DRBC provide information about the default waste load and load allocations that will be part of the TMDL sent to EPA in December of 2003.

Task 5. Develop a Comprehensive Strategy for Achieving the PCB TMDL

The full IAC will work together to devise a set of implementation strategies and programs, decision-criteria, conflict management protocols and alternatives for achieving the TMDL either using the default or alternative wasteload and load allocations. The strategies and programs should include plans to (1) identify, contain, and safely dispose of potential sources of PCB contamination and (2) reduce loadings from active sources, including point and non-point sources and loadings to tributaries as well as to the main stem of the river. Recommendations should identify for each proposed initiative the lead implementing entity, projected costs, potential funding sources, and monitoring or other programs needed to measure progress. For each alternative presented, the committee should provide a date by which the agreed upon water quality standards are expected to be achieved. The comprehensive strategy should include mention of any new rules that may be required to implement strategy components.

Anticipated Timing

It is anticipated that these tasks will take anywhere from 18 months to two years to conclude or approximately 15-25 meeting days for the IAC members. Timeframes will vary widely depending upon the degree of specificity the group chooses to delve into and the timing and way technical information is generated. Pace is largely a function of two things: commitment and resources.

Appendix A: Roles and Responsibilities of Facilitators and Meeting Support Contractors

If the IAC chooses to use a facilitator, the facilitator will:

1. Assist the chair in formulating the agenda with input from the IAC members;
2. Facilitate the meetings at the request of the chair;
3. Ensure compliance with all ground rules;
4. Identify and synthesize points of agreement and disagreement;
5. Assist the chair in building consensus among committee members;
6. Facilitate or create materials for use at IAC meetings;
7. Analyze, “translate” and communicate technical information to a lay audience when necessary;
8. Advocate for a fair, effective and credible process, but remain non-partisan with respect to the outcome of the deliberations; and
9. Record the meetings, track action items and future agenda items, and distribute draft agendas through the chair or co-chairs.

Appendix B: Draft Ground Rules for the Implementation Advisory Committee

The committee will want to develop agreed substantive and procedural ground rules to guide their discussions and decisions. Examples of ground rules for the IAC could include:

1. Be solution-oriented first so real problems can be addressed logically and effectively.
2. Avoid getting bogged down in technical issues. Know when to seek clarification from the TAC or other experts.
3. Share information openly. What information is available must be shared openly.
4. Keep the bigger picture in mind and refer back to it to avoid getting bogged down and to remember (or remind others) why stonewalling is not productive.
5. Clarify and agree on how decisions of the committee will be made. The expectation is that this committee will seek consensus-based decisions.